

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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:  
DONALD HESS and ELIZABETH PADILLA, :  
individually and on behalf of all others similarly situated, : 1:21-cv-04099(AT)(RWL)  
Plaintiffs, :  
: **NOTICE OF MOTION TO**  
-against- : **DISMISS**  
: :  
BED BATH & BEYOND INC., :  
: :  
Defendant. :  
:  
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**PLEASE TAKE NOTICE**, that Defendant Bed Bath & Beyond Inc., (“Bed Bath & Beyond”) relying upon the accompanying Memorandum of Law, Declaration of Jeffrey H. Ruzal, Esq. and the exhibits annexed thereto, and all of the pleadings and proceedings had herein, through their counsel, Epstein Becker & Green, P.C., will move this Court, before the Honorable Judge Analisa Torres, United States District Judge for the Southern District of New York, at 500 Pearl St, New York, New York 10007 for an Order, pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure, dismissing the First Amended Complaint..

**PLEASE TAKE FURTHER NOTICE** that pursuant to the Order of Judge Torres issued on September 30, 2021 (ECF#23), opposing papers, if any, are due on November 4, 2021, and reply papers, if any, are due on December 13, 2021.

**WHEREFORE**, Defendants respectfully request that the Court grant their Motion to Dismiss the First Amended Complaint with prejudice, and grant any other relief the Court deems to be just and proper.

Dated: November 4, 2021  
New York, New York

Respectfully submitted  
EPSTEIN BECKER & GREEN, P.C.

By: /s/ Jeffrey H. Ruzal  
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